THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6918 of 1999

ORAL ORDER:

This writ petition is filed being aggrieved by the award made in I.D.No.131 of 1995 dated 22.1.1998 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur insofar as denying other benefits while directing reinstatement afresh.

Petitioner is the workman and second respondent is the management. Petitioner raised a dispute under Section 2-A(2) of the I.D. Act since he was removed from service on 29.6.1994 by the respondents. It was his contention that the enquiry was not properly conducted and there was no evidence to hold him guilty of the charges and the TTIs also given a statement in his favour, nonetheless he was removed from service. Neither he had collected money nor issued tickets. It appears, Respondent-Croporation did not file any counter. However, on the basis of record made available, the Labour Court held, in the facts and circumstances of the case, passengers could not pay the fare to the petitioner as stated by them. Therefore, it is a case where he had collected money and not issued tickets. Thus, the punishment of removal from service is disproportionate to that of the misconduct and to meet ends of justice while exercising its power under Section 11A of the I.D. Act directed appointment of the petitioner as Conductor afresh. However, no back wages and attendant benefits were awarded. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that during the course of enquiry, the TTI who checked the Bus, stated that when they detected the irregularities, passengers initially told that they

paid the fare and the petitioner did not issue tickets, but at the same time, the head of the group requested not to book case against the petitioner and offered Rs.20/- to the TTIs to issue tickets. From this, the Labour Court inferred that the petitioner did not receive money for issuing tickets. The learned counsel, on the basis of this finding states that once there is a finding that the petitioner did not receive money, though there is some misconduct on his part for not issuing tickets for two fare stages, the punishment of removal from service is disproportionate to that of the misconduct alleged. Therefore, petitioner is entitled for reinstatement with continuity of service, attendant benefits and backwages also.

The learned counsel for respondent-Corporation supported the award passed by the Labour Court and stated that the Labour Court while exercising its power under Section 11-A of the I.D. Act, has taken a lenient view of the matter and ordered for fresh appointment through the impugned award. Therefore, no interference can be made into such an award passed by the Labour Court. The writ petition is devoid of merits and liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

As noticed by the Labour Court, the statement made by the TTI during the course of enquiry, that the leader of the group came forward and asked them not to book case against the petitioner, would indicate that there is some truth in what the petitioner states that he did not receive money and did not issue tickets. Therefore, I am of the considered opinion that the Labour Court while exercising its power under Section 11-A of the I.D. Act ought not to have denied continuity of service while ordering fresh appointment.

In the facts and circumstances of the case, I am of the view that the petitioner is also entitled for continuity of service. However, petitioner is not entitled for any backwages and attendant benefits. Further, the respondent-Corporation is directed to restore the last drawn pay of the petitioner from 1.1.2008. It is also made clear that the petitioner is not entitled for any difference of wages from the date of removal till 31.12.2007.

The writ petition is accordingly allowed. No order as to costs.

_____

C.V.RAMULU, J

Date: 10.10.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6918 of 1999

10.10.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.6918 of 1999

Date: 10th October, 2007

Between:

P.Krishnaiah

.. Petitioner

And

Industrial Tribunal-cum-Labour Court,
Ananthapur, rep. by its Presiding Officer
and another.

.. Respondents